

APPROVED RULES

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of April 17, 1997 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules unless otherwise noted, will become effective on the 31st legislative day of the 1998 Short Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.

APPROVED RULE CITATION			REGISTER CITATION TO THE NOTICE OF TEXT
10	NCAC 03U	.0707*	11:17 NCR 1338
10	NCAC 26G	.0707	11:18 NCR 1371
11	NCAC 12	.1702* Eff. May 1, 1997	not required, G.S. 150B-21.5(a)(5)
12	NCAC 09A	.0103	11:20 NCR 1539
12	NCAC 09B	.0111	11:20 NCR 1539
12	NCAC 09B	.0206	11:20 NCR 1539
12	NCAC 09B	.0224	11:20 NCR 1539
12	NCAC 09B	.0225	11:20 NCR 1539
12	NCAC 09B	.0409	11:20 NCR 1539
12	NCAC 09C	.0304	11:20 NCR 1539
12	NCAC 09C	.0307*	11:20 NCR 1539
12	NCAC 09C	.0309	11:20 NCR 1539
12	NCAC 09C	.0601 - .0608	11:20 NCR 1539
15A	NCAC 02D	.0535	11:16 NCR 1271
15A	NCAC 02D	.1201 - .1207	11:16 NCR 1277 - 1284
15A	NCAC 02D	.1208 - .1209*	11:16 NCR 1284 - 1287
15A	NCAC 02Q	.0312 - .0313	11:16 NCR 1273 - 1275
15A	NCAC 02Q	.0525	11:16 NCR 1275
15A	NCAC 02Q	.0527	11:16 NCR 1276
15A	NCAC 02Q	.0607	11:16 NCR 1277
15A	NCAC 03I	.0107* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03I	.0110* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03I	.0116* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03J	.0104* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03J	.0301* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03K	.0105* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03K	.0204* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03K	.0304* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03L	.0203* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03L	.0205* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03M	.0204	11:18 NCR 1371
15A	NCAC 03M	.0401* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03N	.0103 - .0105* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03O	.0201 - .0202* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03O	.0205* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03O	.0208* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03R	.0101 - .0105* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 03R	.0107* Eff. May 1, 1997	not required, G.S. 150B-21.5
15A	NCAC 10B	.0116	11:18 NCR 1372
15A	NCAC 10D	.0003* Eff. July 1, 1997	not required, G.S. 150B-21.5(a)(5)
15A	NCAC 10F	.0317	11:19 NCR 1427

.0519 TERMINATION, MODIFICATION, REVOCATION OF PERMITS

(a) The Director may terminate, modify, or revoke and reissue a permit issued under this Section if:

- (1) The information contained in the application or presented in support thereof is determined to be incorrect;
- (2) The conditions under which the permit or permit renewal was granted have changed;
- (3) Violations of conditions contained in the permit have occurred;
- (4) The permit holder fails to pay fees required under Section .0200 of this Subchapter within 30 days after being billed;
- (5) The permittee refuses to allow the Director or his authorized representative upon presentation of credentials:
 - (A) to enter, at reasonable times and using reasonable safety practices, the permittee's premises in which a source of emissions is located or in which any records are required to be kept under terms and conditions of the permit;
 - (B) to have access, at reasonable times, to any copy or records required to be kept under terms and conditions of the permit;
 - (C) to inspect, at reasonable times and using reasonable safety practices, any source of emissions, control equipment, and any monitoring equipment or method required in the permit; or
 - (D) to sample, at reasonable times and using reasonable safety practices, any emission source at the facility;
- (6) EPA requests that the permit be revoked under 40 CFR 70.7(g) or 70.8(d); or
- (7) The Director finds that termination, modification or revocation and reissuance of a permit is necessary to carry out the purpose of G.S. Chapter 143, Article 21B.

(b) To operate a facility or source after its permit has been revoked is a violation of this Section and G.S. 143-215.108.

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Statutory Authority G.S. 143-215.3(a)(1), (1a),(1b);
143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994.

.0520 CERTIFICATION BY RESPONSIBLE OFFICIAL

(a) A responsible official shall certify the truth, accuracy, and completeness of any application form, report, or compliance certification required under this Section or by a term or condition in a permit issued under this Section.

(b) This certification shall state that, based on information and belief formed after reasonable inquiry, the statement and information in the document are true, accurate, and complete.

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Statutory Authority G.S. 143-215.3(a)(1), (2);
143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994.

.0521 PUBLIC PARTICIPATION

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued under Rules .0514, .0515, .0524 of this Section. The Director may give public notice with an opportunity for comments and a hearing on draft permit revisions issued under Rule .0514, .0515, .0524 of this Section.

(b) The notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Division's mailing list for air quality permit notices.

(c) The notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of Divisional staff from whom interested persons may obtain additional information, including copies of the permit draft, the application, compliance plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to Division that are relevant to the permit decision;
- (5) the activity or activities involved in the permit action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the comment procedures;

- (8) the procedures to follow to request a hearing unless a hearing has already been scheduled; and
- (9) the time and place of any hearing that has already been scheduled.
- (d) The Director shall send a copy of the notice to affected States and EPA.
- (e) The notice shall allow 30 days for public comments.
- (f) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.
- (g) If EPA requests a record of the comments and of the issues raised during the public participation process, the Director shall provide EPA this record.
- (h) Persons who desire to be placed on the Division's mailing list for air quality permit notices shall send their request to the Director, Division of Air Quality, P.O. Box 29580, Raleigh, North Carolina 27626-0580 and shall pay an annual fee of thirty dollars (\$30.00).
- (i) Any persons requesting copies of material identified in Subparagraph (c)(4) of this Rule shall pay ten cents (\$0.10) a page for every page copied. Confidential material shall be handled in accordance with Rule .0107 of this Subchapter.

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1), (3); 143-215.107(a)(10);
143-215.108; 143-215.111(4);
Eff. July 1, 1994;
Amended Eff. July 1, 1998.

.0522 REVIEW BY EPA AND AFFECTED STATES

- (a) The Director shall provide EPA a copy of each permit application, including any application for permit revision, each proposed permit, and each final permit issued under this Section. If EPA has informed the Director that a permit application summary and relevant portion of the permit application and compliance plan are all it needs, the Director may provide this abridgement in place of the complete application.
- (b) The Division shall retain for five years a copy of all permit applications, permits, and other related material submitted to or issued by the Division under this Section.
- (c) The Director shall provide notice to each affected State of each draft permit at or before the time notice is provided to the public under Rule .0521 of this Section.

(d) The Director, in writing, shall notify EPA and any affected State of any refusal by the Division to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period and shall state the reasons for not accepting any such recommendations.

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; 143-215.111(5);
Eff. July 1, 1994.

.0523 CHANGES NOT REQUIRING PERMIT REVISIONS

(a) Section 502(b)(10) changes:

- (1) The permittee may make Section 502(b)(10) changes without having his permit revised if:
 - (A) The changes are not a modification under 15A NCAC 2D or Title I of the federal Clean Air Act;
 - (B) The changes do not cause the emissions allowable under the permit to be exceeded;
 - (C) The permittee notifies the Director and EPA with written notification at least seven days before the change is made; and
 - (D) The permittee shall attach the notice to the relevant permit.
- (2) The written notification required under Part (a)(1)(C) of this Rule shall include:
 - (A) a description of the change,
 - (B) the date on which the change will occur,
 - (C) any change in emissions, and
 - (D) any permit term or conditions that is no longer applicable as a result of the change.
- (3) Section 502(b)(10) changes shall be made in the permit the next time that the permit is revised or renewed, whichever comes first.

(b) Off-permit changes. A permittee may make changes in his operation or emissions without revising his permit if:

- (1) The change affects only insignificant activities and the activities remain insignificant after the change, or
- (2) The change is not covered under any applicable requirement.

(c) Emissions trading.

- (1) To the extent that emissions trading is allowed under 15A NCAC 2D, including subsequently adopted maximum achievable control technology standards, emissions trading shall be allowed without permit revisions provided that:
 - (A) All applicable requirements are met;
 - (B) The permittee complies with all terms and conditions of the permit in making the emissions trade; and
 - (C) The permittee notifies the Director and EPA with written notification at least seven days before the trade is made.
- (2) If an emissions cap has been established by a permit condition for the purposes of limiting emissions below that allowed by an otherwise applicable requirement, emissions trading shall be allowed to the extent allowed by the permit if:
 - (A) An emissions cap is established in the permit to limit emissions;
 - (B) The permit specifies the emissions limits with which each source shall comply under any applicable requirement;
 - (C) The permittee complies with all permit terms that ensure the emissions trades are enforceable, accountable, and quantifiable;
 - (D) The permittee complies with all applicable requirements;
 - (E) The permittee complies with the emissions trading procedures in the permit;
 - (F) The permittee notifies the Director and EPA with written notification at least seven days before the trade is made.
- (3) The written notification required under Subparagraph (1) of this Paragraph shall include:
 - (A) a description of the change,
 - (B) the date on when the change will occur,
 - (C) any change in emissions,
 - (D) the permit requirement with which the facility or source will comply using the emissions trading provision of the applicable provision of 15A NCAC 2D, and
 - (E) the pollutants emitted subject to the emissions trade.
- (4) The written notification required under Subparagraph (2) of this Paragraph shall include:
 - (A) a description of the change,
 - (B) the date on when the change will occur,

- (C) changes in emissions that will result and how the increases and decrease in emissions will comply with the terms and conditions of the permit.

(d) The permit shield allowed under Rule .0512 of this Section shall not apply to changes made under Paragraphs (a), (b), or (c) of this Rule.

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994.

.0524 OWNERSHIP CHANGE

- (a) Applications for ownership changes shall:
 - (1) contain the information required under Rule .0505(4) of this Subchapter, and
 - (2) follow the procedures under Section .0300 of this Subchapter.
- (b) When the Director permits an ownership change, he shall submit a copy of the permit to EPA as an administrative amendment.

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994.

.0525 APPLICATION PROCESSING SCHEDULE

- (a) Except for permit applications submitted under Rule .0506 of this Subchapter, the Division shall adhere to the following schedule in processing applications for permits, significant permit modifications, and permit renewal:
 - (1) The Division shall send written acknowledgment of receipt of the application to the applicant within 10 days of receipt of the application.
 - (2) The Division shall review all permit applications within 60 days of receipt of the application to determine whether the application is complete or incomplete. The Division shall notify the applicant by letter:

- (A) stating that the application as submitted is complete and specifying the completeness date,
- (B) stating that the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Division, or
- (C) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant by letter dated within 60 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information. A completeness determination shall not be necessary for minor modifications under Rule .0514 of this Section.

- (3) The Division shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment or the facility. The Division shall complete the technical review within 270 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (4) The Director shall send the public notice for public comment on the draft permit to affected states, to EPA, and to persons on the mailing list within 270 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (5) If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.
- (6) The Director shall complete the review of the record and send the proposed permit to EPA:

- (A) within 30 days after the close of the public comment period if there is no public hearing on the draft permit; or
- (B) within 45 days after the close of the public hearing if there is a public hearing on the draft permit.
- (7) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:
 - (A) expiration of EPA 45-day review period; or
 - (B) receipt of notice from EPA that it will not object to issuance, whichever comes first.
- (8) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objections.
- (b) The Director may return at any time applications containing insufficient information to complete the review.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. February 1, 1995; Amended Eff. July 1, 1998.

.0526 CASE-BY-CASE MACT PROCEDURES

- (a) The owner or operator of a source required to apply maximum achievable control technology (MACT) under 15A NCAC 2D .1109 shall follow the permit procedures set out in this Rule.
- (b) For the purposes of this Rule, the definitions in 15A NCAC 2D .1109 and the following definitions apply:
 - (1) "Equivalent emission limitation" means an emission limitation, established under Section 112(j) of the federal Clean Air Act, which is at least as stringent as the MACT standard that EPA would have promulgated under Section 112(d) or (h) of the federal Clean Air Act.
 - (2) "Source category schedule for standards" means the schedule for promulgating MACT standards issued pursuant to Section 112(e) of the federal Clean Air Act.
- (c) Except as provided for in Paragraph (d) or (e) of this Rule, the owner or operator of a source required to apply MACT under 15A NCAC 2D .1109 shall submit an application for a permit or for a significant permit revision under this Section, whichever is applicable.
- (d) The owner or operator of an existing source required to apply MACT under 15A NCAC 2D .1109 that already has received a permit under this Section requiring compliance with a limit that would meet the requirements of 15A

NCAC 2D .1109 shall submit an application for an administrative permit amendment.

(e) The owner or operator of a new source required to apply MACT under 15A NCAC 2D .1109 that currently complies with a federally enforceable alternative emission limitation, or has received a permit under this Section that already contains emission limitations substantively meeting the requirements of 15A NCAC 2D .1109, shall submit an application for an administrative permit amendment confirming compliance with the requirements of 15A NCAC 2D .1109 within 30 days after the date construction or reconstruction is commenced.

(f) If the Director disapproves a permit application submitted under this Rule or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the Director's objections not later than six months after first receiving notification that the application has been disapproved or is incomplete.

(g) If the owner or operator of a source subject to this Rule has submitted a timely and complete application for a permit, significant permit revision, or administrative amendment required by this Rule, any failure to have this permit will not be a violation of the requirements of this Rule unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application.

(h) The permit shall contain:

- (1) an equivalent emission limitation (or limitations) to control the emissions of hazardous air pollutant for that category or subcategory determined on a case-by-case basis;
- (2) any emission limits, production limits, operational limits or other terms and conditions necessary to ensure federal enforceability of the MACT emission limitation;
- (3) any notification, performance testing, monitoring, reporting, and recordkeeping requirements; and
- (4) a compliance date(s) by which the owner or operator of an existing source shall be in compliance with the MACT emission limitation not to exceed three years from the date of issuance of the permit (The owner or operator of a new source shall comply with a new source MACT level of control immediately upon issuance of a permit under this Section).

(i) Early reductions made pursuant to Section 112(i)(5)(A) of the federal Clean Air Act shall be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(j) A permit application for a MACT determination shall demonstrate how the source will obtain the degree of emission reduction that would have been obtained had the relevant emission standard been promulgated according to the source category schedule for standards for the source category of which the source is a member and all the other pertinent information required under 40 CFR 63.53.

(k) The Director shall follow 40 CFR 63.55(b) in reviewing permit applications for MACT.

(l) The following requirements apply to case-by-case determinations of equivalent emission limitations when a MACT standard is subsequently promulgated:

- (1) If EPA promulgates an emission standard that is applicable to one or more sources within a major facility before the date a proposed permit under this Rule is approved, the permit shall contain the promulgated standard rather than the emission limitation determined under 15A NCAC 2D .1109, and the owner or operator of the source shall comply with the promulgated standard by the compliance date in the promulgated standard.
- (2) If EPA promulgates an emission standard that is applicable to a source after the date that a permit is issued under this Rule, the Director shall revise the permit on its next renewal to reflect the promulgated standard. (Subparagraph (a)(1) of Rule .0517 of this Section does not apply to requirements established under this Rule.) The Director shall establish a compliance date in the revised permit that assures that the owner or operator shall comply with the promulgated standard within a reasonable time, but no longer than eight years after such standard is promulgated or eight years after the date by which the owner or operator was first required to comply with the emission limitation established by permit, whichever is earlier.
- (3) Notwithstanding the requirements of Subparagraphs (1) or (2) of this Paragraph, if EPA promulgates an emission standard that is applicable to a source after the date a proposed permit is approved, the Director need not change the emission limitation in the permit to reflect the promulgated standard if the level of control required by the emission limitation in the permit is at least as stringent as that required by the promulgated standard.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1996.

[pages 44 through 46 reserved]